

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

AUGUST 3, 2001

IN RE:

DOCKET TO DETERMINE THE COMPLIANCE
OF BELL SOUTH TELECOMMUNICATIONS,
INC.'S OPERATIONS SUPPORT SYSTEMS
WITH STATE AND FEDERAL REGULATIONS

DOCKET NO.
01-00362

ORDER GRANTING MOTION TO STRIKE

This matter is before the Pre-Hearing Officer on a *Motion on Behalf of AT&T Communications of the South Central States, Inc. and TCG MidSouth, Inc. to Strike BellSouth Telecommunications, Inc.'s Unsolicited Pre-filed Written Testimony ("Motion to Strike")*.

Background

At the February 21, 2001 Authority Conference, the Tennessee Regulatory Authority ("Authority" or "TRA") established TRA Docket No. 01-00362 to: (1) engage an independent third party to advise the Authority of the areas in which reliance on existing data or the test results from other states related to BellSouth Telecommunications, Inc.'s ("BellSouth") Operational Support Systems ("OSS") is not possible; and (2) engage an independent third party to conduct any required testing. The Directors also voted unanimously to appoint Director H. Lynn Greer, Jr. to act as Pre-Hearing Officer in this proceeding.

On May 3, 2001, the undersigned Pre-Hearing Officer issued a *First Report and Recommendation*, which recommended bifurcating these proceeding into two phases, consisting of the preparation of a Phase I report by a selected consultant and commencement of a hearing to receive evidence from the consultant and interested parties.

At the regularly scheduled Authority Conference on May 15, 2001, the Directors voted unanimously to approve the *First Report and Recommendation* and authorized the Executive Secretary to select and retain a qualified consultant to prepare the Phase I report proposed in therein, subject to approval by the Authority. At present, the Executive Secretary is actively engaged in negotiations preliminary to retaining a qualified consultant.

On June 21, 2001, BellSouth filed the testimony of five witnesses in this docket. On July 23, 2001, AT&T Communications of the South Central States, Inc. ("AT&T") and TCG MidSouth, Inc. ("TCG") filed the *Motion to Strike*, arguing that the filing is not authorized by any procedural order in this docket, is premature and contravenes the spirit of the process established for this proceeding. On July 25, 2001, the Pre-Hearing officer issued a *Notice of Filing* which directed BellSouth to file (1) a written response to the *Motion to Strike* and (2) a statement indicating whether it intends to supplement or substitute any of the testimony it had filed in this proceeding. Interested parties were given a time certain in which to file comments.

On July 30, 2001, BellSouth filed its response to the *Motion to Strike*. BellSouth argued that its filings would expedite the consultant's review process. BellSouth also asserted that it "intends on substituting testimony heretofore filed in this proceeding with expanded testimony." On July 31, 2001, BellSouth filed testimony replacing the testimony it had filed on June 21, 2001. The new filing consisted of testimony and exhibits of the same five witnesses.

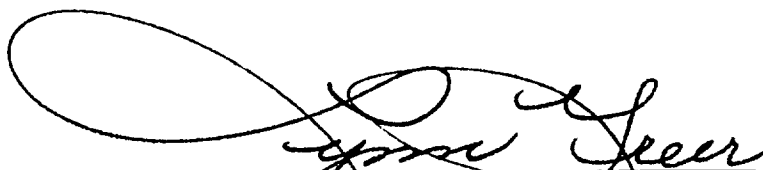
The record clearly shows that these proceedings are at a preliminary stage. At this time, the independent third party consultant has not yet been retained, although negotiations are proceeding. Until a consultant is retained and conferred with, a meaningful scheduling order related to the filing of evidence cannot be disseminated and the issues to be considered in this proceeding cannot be fully formed. Until the issues are framed, the relevance of BellSouth's pre-filed testimony cannot be determined. It follows that BellSouth's evidentiary filings are

premature. As this docket proceeds, pre-filed testimony on specific issues will be solicited from the parties.

IT IS THEREFORE ORDERED THAT:

1. The *Motion on Behalf of AT&T Communications of the South Central States, Inc. and TCG MidSouth, Inc. to Strike BellSouth Telecommunications, Inc.'s Unsolicited Pre-filed Written Testimony* is granted.

2. Any party aggrieved by this Order may file a Petition for Reconsideration with the Pre-Hearing Officer pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of this Order.



Director H. Lynn Greer, Jr.
Pre-Hearing Officer

ATTEST:



K. David Waddell, Executive Secretary